

General Information Letter: In computing limit on foreign tax credit, base income subject to tax in Illinois and the other state is net of a subtraction modification allowed in computing both base income and the tax base in the other state.

October 5, 2001

Dear:

This is in response to your letter dated May 9, 2001, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

I understand why you adjusted the credit from Indiana. However, I as the accountant have always used line number 1 from the Indiana return as the Illinois base income taxed by other state Column B Step 2 of the Schedule CR Credit for Taxes Paid to Other States. You are using line number 3 which is a lower amount taking into account reduction in the Illinois property taxes paid my client to Illinois. Never have I received a correction as to the way that I have been preparing the Indiana credit on the Illinois return until now. Please send me an explanation A.S.A.P. and a copy of the client Ismael and Delia Aguilar. What is your interpretation of the law?

Response

Section 601(b)(3) of the Illinois Income Tax Act (35 ILCS 5/601) provides that the credit allowed to a resident for taxes paid to another state:

shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's bears to his total base income subject to tax by this State for the taxable year.

Section 203(a)(2)(I) of the Illinois Income Tax Act (35 ILCS 5/201) allows an individual, in computing base income, to subtract from his or her federal adjusted gross income:

all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted from adjusted gross income in the computation of taxable income.

Under this provision, your clients were allowed to compute their base income by subtracting the amount of Illinois property taxes refunded to them, because that refund is included in adjusted gross income as a recovery of an itemized deduction. According to your inquiry, this is the same adjustment made on your clients' Indiana return, creating the difference between lines 1 and 3 on the Form IT-40 PNR. Because this adjustment was taken into account in computing your clients' base income subject to Illinois tax and in computing the amount taxed by Indiana, it must also be taken

IT 01-0080-GIL
October 5, 2001
Page 2

into account in computing "base income subject to tax both by such other state or states and by this State."

As stated above, this is a general information letter, which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax